THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22323 of 1998

ORAL ORDER:

This writ petition is filed being aggrieved by the award passed by the Labour Court-II at Hyderabad in I.D.No.40 of 1994 dated 12.3.1997, whereunder the claim petition filed under Section 2-A(2) of the Industrial Disputes Act, 1947 was answered in favour of workman directing the management to reinstate him into service with all attendant benefits such as continuity of service etc., but with 25% back wages only.

It appears, respondent-workman while working as Conductor in Petitioner-Corporation has committed certain cash and ticket irregularities. After conducting a regular enquiry into the matter, he was removed from service with effect from 18.3.1993. Aggrieved by the same, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court. In view of the fact that the workman filed a memo stating that he is not contesting the correctness of the domestic enquiry, the Labour Court after considering the rival submissions and the material made available before it, went into the proportionality of the punishment awarded against the workman and held that the punishment of removal from service is disproportionate to that of the misconduct alleged, therefore, directed for reinstatement of the workman into service with all attendant benefits such as continuity of service and with 25% back wages.

I am of the opinion that once the enquiry is held to be valid and the management proved the charges against the workman and the workman did not choose to challenge the same, it was not automatic for the Labour Court to say that the punishment imposed is disproportionate to that of the misconduct alleged. The reasons furnished by the Labour Court are untenable. The Labour Court simply stated that in view of paltry sum involved, the punishment of removal from service is disproportionate to that

of the misconduct alleged, which is not tenable. However, in pursuance of the impugned award passed by the Labour Court, the respondent-workman has already been reinstated into service and he is in service as of now. In the facts and circumstances of the case, I am of the opinion that though the Labour Court may be justified in directing reinstatement of the workman, but there was no justification for awarding 25% back wages some thing like reward.

In view of the same, I deem it appropriate to modify the award passed by the Labour Court to be read as under:

> "The removal order passed by the petitioner-management is set aside and the respondent workman is entitled for reinstatement with continuity of service, but without any attendant benefits and without any back wages".

Subject to above, the writ petition stands allowed. No order as to costs.

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C.V.RAMULU, J

Date: 6.6.2007

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W.P.No.22323 of 1998

6.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.22323 of 1998

Date: 6th June, 2007

Between:

The Depot Manager,
APSRTC, Bodhan Depot,
Nizamabad district.

.. Petitioner

And

K.R.Chary & another.

.. Respondents